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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR A SEARCH
WARRANT TO SEARCH THE
CELLULAR TELEPHONE LOCATED
AT ATF BALTIMORE FIELD OFFICE
31 HOPKINS PLAZA, 5th FLOOR,
BALTIMORE, MARYLAND 21201

Case No. 19 - 0621 JMC

AFFIDAVIT IN SUPPORT OF A SEARCH AND SEIZURE WARRANT

I, Special Agent ("SA") Terence Owen Byrne III of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") depose and state as follows:

1. This is an Affidavit in support of a search warrant authorizing the search of the following property which was seized on February 8, 2019 and is currently located at ATF Baltimore Field Office 31 Hopkins Plaza, 5th Floor, Baltimore, Maryland 21201:

- a. A white Apple iPhone, bearing IMEI: 352979096911721, cellular assigned call number 202-627-8537 ("**Subject Electronic Device**"), also described in Attachment A.

2. The applied for warrant would authorize the forensic examination of the **Subject Electronic Device** for the purpose of identifying electronically stored data particularly described in Attachment B.

3. The **Subject Electronic Device** came into the ATF's possession when it was seized during the search incident to arrest of a federal arrest warrant for **KALVIN GENE BEARS** (BEARS). BEARS was arrested for possessing firearms in violation of 18 U.S.C. § 922 (g)(1). As detailed below, probable cause exists to believe that the above-described property, also listed in Attachment A, contains evidence, fruits, and instrumentalities of firearms possession, firearms

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trafficking, the identity of other members engaged in firearms trafficking, their methods of firearms possession and trafficking, and the laundering of proceeds of firearms trafficking.

4. The information set forth in this affidavit derives from my personal knowledge and observations, discussions with ATF employees, law enforcement officers, and witnesses, and review of police reports and public records. Conversations and statements described herein are related in substance and in part unless otherwise indicated. Because this Affidavit is being submitted for the limited purpose of establishing probable cause for a search warrant, I have not included every detail of every aspect of the investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause. I have not, however, excluded any information known to me that would defeat a determination of probable cause.

AFFIANT BACKGROUND

5. I have been a Special Agent with the ATF, United States Department of Justice, since November 2017. My responsibilities with ATF include the investigation of criminal violations involving the unlawful use, manufacture and possession of firearms and explosives; acts of arson and bombings; illegal trafficking of alcohol and tobacco products, and related offenses. I am assigned to the Baltimore Field Division, Group III, which investigates violations of federal firearms laws, violent crimes, and armed narcotic trafficking. Accordingly, I have participated in illegal firearms trafficking investigations and arrests.

6. Based upon this training and experience, I am familiar with the ways in which firearm traffickers conduct their business, including, but not limited to, methods of illegally importing and distributing firearms, use of communications facilities and transportation platforms to arrange for and coordinate those distributions, use of codes to conduct their transactions, and the financial vehicles used to launder the proceeds of illegal firearms transactions.

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7. I also know, based upon this training and experience, that firearms traffickers use cellular phones and “smart” phones to contact their associates, sources of supply, and their customers. They also use these devices to store information such as names, addresses, and phone numbers of associates, sources of supply, and their customers, and logs of firearms sales.

PROBABLE CAUSE

8. ATF began investigating BEARS in September 2018 for engaging in the possession of firearms by a prohibited person in violation of 18 U.S.C. § 922 (g)(1) and distribution and sale of firearms in violation of 18 U.S.C. § 922 (a)(1) & (3), after a reliable confidential source (“CI”)¹ provided information to investigators regarding firearms he purchased from BEARS. During the course of the investigation, investigators conducted three controlled purchases of firearms from BEARS: September 6, 2018, September 20, 2018, and December 6, 2018.² The CI arranged the September 20, 2018 and December 6, 2018 transactions by calling and/or texting with BEARS on the **Subject Electronic Device**.

9. The CI provided investigators the cellular phone number he used to communicate with BEARS and investigators have verified that it is the same number as the **Subject Electronic Device’s** assigned call number.³ Additionally, investigators reviewed the toll logs for the **Subject Electronic Device** for the timeframe of September 28, 2018 through November 26, 2018 and

¹ CI-27135 is a registered confidential informant with ATF, and has been since September 2018. CI-27135 previously assisted HSI agents and provided reliable information in exchange for a dismissal of pending charges.

² BEARS was previously convicted of a crime punishable by a term of imprisonment exceeding one year, making BEARS a prohibited person. BEARS is not a licensed importer, licensed manufacture, or licensed dealer of firearms.

³ Investigators dialed the cellular phone number used by the CI to contact BEARS and witnessed the incoming call number on the screen of the **Subject Electronic Device**.

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December 11, 2018 through February 8, 2019 (when the controlled purchases of firearms from BEARS by the CI were occurring).⁴ A review of the toll records verified that the CI's own cellular assigned call number had incoming and outgoing calls to the **Subject Electronic Device** during that time.

10. In advance of the September 20, 2018 and December 6, 2018 transactions, BEARS talked with the CI over the phone and sent the CI text messages, including photos of firearms, setting up the transactions. Before both transactions he sent photographs of firearms to the CI and sent the CI text messages initiating the sales and discussing the price.

11. For example, on December 6, 2018, at approximately 8:10 a.m., BEARS sent the CI a photo of two handguns from the **Subject Electronic Device**. BEARS included the message, "on my way in town. I need 550" with the photo. Investigators believed BEARS was offering to sell the CI the handguns for \$550. The CI and BEARS exchanged additional text messages that day and ultimately, the CI purchased a SCCY CPX-2 9mm handgun, bearing serial number 193740, for \$450 from BEARS.⁵

12. On January 24, 2019, a federal grand jury sitting in the District of Maryland indicted BEARS on two counts of 18 U.S.C. § 922(g). Agents executed the arrest warrant the following day at BEARS's residence in Washington, D.C. They recovered the **Subject Electronic Device** off of BEARS's person.

⁴ Magistrate Judge J. Mark Coulson of the U.S. District Court for the District of Maryland authorized the installation of a pen register for the number associated with the **Subject Electronic Device** (202-627-8537) on September 28, 2018 and that authorization was renewed by Magistrate Judge Stephanie A. Gallagher on December 11, 2018.

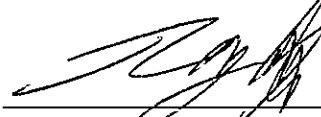
⁵ The handgun purchased was not one of the handguns depicted in the original text message.

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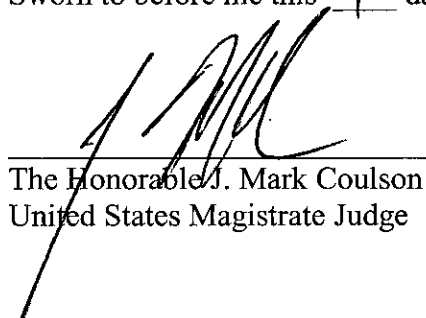
CONCLUSION

13. Based on the information set forth in this affidavit, I believe that sufficient probable cause exists to believe that BEARS used the **Subject Electronic Device** to further and as a tool to commit violations of 18 U.S.C. § 922(g) and 18 U.S.C. § 922(a). There is probable cause to believe that evidence these offenses is contained within the **Subject Electronic Device**.

WHEREFORE, in consideration of the facts presented, I respectfully request that this Court issue a search warrant for the **Subject Electronic Device**, and authorize the search the item described in Attachment A and seizure of the information described in Attachments B.


Terence Owen Byrne III
Special Agent, ATF

Sworn to before me this 19 day of February, 2019.


The Honorable J. Mark Coulson
United States Magistrate Judge

FILED _____ ENTERED _____
LOGGED _____ RECEIVED _____
FEB 25 2019
AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY 